

AMENDED IN ASSEMBLY MARCH 28, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 494**

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**Introduced by Assembly Member Huffman  
(Principal coauthor: Assembly Member Garrick)**

February 20, 2007

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An act to amend Section 64001 of, and to add Section 33051.1 to, the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

AB 494, as amended, Huffman. State Board of Education: waiver authority.

~~Under~~

(1) *Under* existing law, the governing board of a school district or a county board of education, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, is authorized to request that the State Board of Education waive all or part of any section of the Education Code, or any regulation adopted by the board that implements a provision of that code, except as specified. The State Board is required to approve any and all requests for waivers except in those cases where the board makes specified findings. Existing law provides that if formal action by the State Board on a waiver request is not taken by the second regular meeting of the board following receipt of a complete and documented waiver request by the State Department of Education, the waiver is deemed approved for one year.

This bill would require the State Board ~~and~~ to approve any and all waiver requests from a school district if the Academic Performance Index of the school district and at least 70% of the schools in the district

*meets or exceeds a score of 800 in each of the 3 prior years. The bill would require the department to review and act on a these waiver request requests on an expedited basis, and with a minimum amount of documentation, of a school district with at least 70% of its schools receiving Academic Performance Index scores of 800 or more in each of the 2 prior years. The bill would state the intent of the Legislature that these waivers be approved for at least 3 years.*

*(2) Existing law requires a school district that elects to apply for certain state and federal categorical program funds to submit to the State Department of Education a single consolidated application for approval by the State Board of Education. Related onsite school and district compliance visits and reviews are conducted by the department.*

*This bill would require the department to notify a school district at least 60 days before the date that a review is scheduled to occur if the department intends to waive that review or extend the time before the next onsite review. If a school receives a positive review, the review is waived, or the time before the next review is extended, the bill would provide that the school is not subject to any further monitoring for at least 3 years. The bill would provide that a school with an Academic Performance Index score of 800 or more that receives a positive review is not subject to any further monitoring for at least 6 years.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 33051.1 is added to the Education Code,~~  
2     ~~to read:~~  
3     ~~33051.1. The State Board and the department shall review and~~  
4     ~~act on a waiver request on an expedited basis, and with a minimum~~  
5     ~~amount of documentation, of a school district in which at least 70~~  
6     ~~percent of the schools in the district received scores of 800 or~~  
7     ~~greater on their Academic Performance Index in each of the two~~  
8     ~~prior years.~~  
9     ~~SECTION. 1. Section 33051.1 is added to the Education Code,~~  
10    ~~to read:~~  
11    ~~33051.1. (a) The State Board shall approve any and all waiver~~  
12    ~~requests from a school district if the Academic Performance Index~~  
13    ~~of the school district and at least 70 percent of the schools in the~~  
14    ~~district meets or exceeds 800 in each of the three prior years. For~~

1 school districts that meet or exceed a score of 800 on the Academic  
2 Performance Index, but are so small that the 70 percent  
3 requirement is inappropriate, the Superintendent shall determine  
4 a comparable measure that considers the scores of pupils on tests  
5 that are used in determining a school's rank on the Academic  
6 Performance Index. The department shall expedite waiver requests  
7 to which this section applies, with minimum documentation being  
8 required of the requesting district. All of the requirements of  
9 Sections 33050 and 33050.3 apply to a waiver request made  
10 pursuant to this section. A provision that may not be waived  
11 pursuant to Section 33050 shall not be waived pursuant to this  
12 section. A school district shall provide the following:

13 (1) A statement of the desired outcome, rationale, and  
14 explanation of the manner in which the requested flexibility is to  
15 be used by the district.

16 (2) A plan describing the manner in which the requesting district  
17 will meet the academic needs of its low performing pupils and  
18 subgroups.

19 (b) Notwithstanding subdivision (a), the State Board shall not  
20 deny a waiver request unless it makes written factual findings,  
21 specific to the request, setting forth specific facts to support one  
22 or more of the following findings:

23 (1) The waiver affects a program that requires the participation  
24 of the schoolsite council and the schoolsite council did not approve  
25 the request.

26 (2) The appropriate councils or advisory committees, including  
27 bilingual advisory committees, did not have an adequate  
28 opportunity to review the request and the request did not include  
29 a written summary of any objections to the request by the councils  
30 or advisory committees.

31 (3) Pupil or school personnel protections are jeopardized.

32 (4) Guarantees of parental involvement are jeopardized.

33 (5) The waiver substantially would increase state costs.

34 (6) The exclusive representative of employees, if any, as  
35 provided in Chapter 10.7 (commencing with Section 3540) of  
36 Division 4 of Title 1 of the Government Code, was not a participant  
37 in the development of the waiver.

38 (7) The waiver would be inconsistent with, or undermine, a  
39 court ordered settlement.

1 (c) *It is the intent of the Legislature that waivers approved*  
2 *pursuant to this section be approved for at least three years. Waiver*  
3 *renewals shall be governed by the same criteria as the initial*  
4 *waiver requests submitted pursuant to this section, but with an*  
5 *additional performance review to determine whether the pupil*  
6 *outcome and subgroup goals were met.*

7 (d) *Notwithstanding subdivision (g) of Section 60200 and*  
8 *subdivision (d) of Section 60421, a school district shall not use*  
9 *the waiver procedures and authority of this section to request a*  
10 *waiver that would allow it to use state instructional materials funds*  
11 *to purchase materials that are not adopted by the State Board*  
12 *pursuant to Section 60200.*

13 (e) *If formal action by the State Board on a waiver request*  
14 *pursuant to this section is not taken by the second regular meeting*  
15 *of the board following receipt of a complete and documented*  
16 *waiver request by the department, the waiver shall be deemed*  
17 *approved.*

18 SEC. 2. *Section 64001 of the Education Code is amended to*  
19 *read:*

20 64001. (a) (1) *Notwithstanding any other provision of law,*  
21 *school districts shall not be required to submit to the department,*  
22 *as part of the consolidated application, school plans for categorical*  
23 *programs that are subject to this part. School districts shall assure,*  
24 *in the consolidated application, that the*~~Single Plan for Pupil~~  
25 ~~Achievement~~ *single plan for pupil achievement* *established*  
26 *pursuant to subdivision (d) has been prepared in accordance with*  
27 *law, that schoolsite councils have developed and approved a plan,*  
28 *to be known as the*~~Single Plan for Pupil Achievement~~ *single plan*  
29 *for pupil achievement* *for schools participating in programs funded*  
30 *through the consolidated application process; and any other school*  
31 *program they choose to include, and that school plans were*  
32 *developed with the review, certification, and advice of*~~any~~  
33 *applicable school advisory committees. The*~~Single Plan for Pupil~~  
34 ~~Achievement~~ *single plan for pupil achievement* *may also be*  
35 *referred to as the*~~Single Plan for Student Achievement~~ *single plan*  
36 *for student achievement. The consolidated application also shall*  
37 *also include certifications by appropriate district advisory*  
38 *committees that the application was developed with review and*  
39 *advice of those committees.*

40 ~~For any~~

1 (2) *If a consolidated application*~~that~~ *does not include the*  
2 *necessary certifications or assurances, the department shall initiate*  
3 *an investigation to determine whether the consolidated application*  
4 *and*~~Single Plan for Pupil Achievement~~ *single plan for pupil*  
5 *achievement were developed in accordance with law and with the*  
6 *involvement of applicable advisory committees and schoolsite*  
7 *councils.*

8 (b) (1) Onsite school and district compliance reviews of  
9 categorical programs shall continue, and school plans shall be  
10 required and reviewed as part of these onsite visits and compliance  
11 reviews. The Superintendent shall establish the process and  
12 frequency for conducting reviews of district achievement and  
13 compliance with state and federal categorical program  
14 requirements. In addition, the Superintendent of ~~Public Instruction~~  
15 shall establish the content of these instruments, including any  
16 criteria for differentiating these reviews based on the achievement  
17 of pupils, as demonstrated by the Academic Performance Index  
18 developed pursuant to Section 52052, and evidence of district  
19 compliance with state and federal law. ~~The state board~~ *State Board*  
20 shall review the content of these instruments for consistency with  
21 ~~state board~~ *State Board* policy.

22 (2) *If the department intends, based on its review of a school's*  
23 *Academic Performance Index data and record of compliance, not*  
24 *to perform an onsite compliance review or extend the time before*  
25 *the next onsite review, the department shall notify the school*  
26 *district at least 60 days before the date that the eliminated or*  
27 *postponed review would otherwise occur. If a school receives a*  
28 *positive review, the review is waived, or the time before the next*  
29 *review is extended, the school shall not be subject to any further*  
30 *monitoring for at least three years. If a school with an Academic*  
31 *Performance Index score of 800 or more receives a positive review,*  
32 *it shall not be subject to any further monitoring for at least six*  
33 *years.*

34 (c) (1) A school district shall submit school plans whenever  
35 the department requires the plans in order to effectively administer  
36 ~~any~~ *a categorical program subject to this part. The department may*  
37 *require submission of the school plan for*~~any~~ *a school that is the*  
38 *specific subject of a complaint involving*~~any~~ *a categorical program*  
39 *or service subject to this part.*

40 The

1 (2) *The* department may require a school district to submit other  
2 data or information as may be necessary for the department to  
3 effectively administer ~~any~~ *a* categorical program subject to this  
4 part.

5 (d) Notwithstanding any other provision of law, as a condition  
6 of receiving state funding for a categorical program pursuant to  
7 Section 64000, and ~~in lieu~~ *instead* of the information submission  
8 requirements that were ~~previously~~ required by this section prior  
9 to the amendments that added this subdivision and subdivisions

10 (e) to (i), inclusive *January 1, 2002*, school districts shall ensure  
11 that each school in a district that operates ~~any~~ categorical programs  
12 subject to this part consolidates ~~any~~ *the* plans that are required by  
13 those programs into a single plan. Schools may consolidate ~~any~~  
14 plans that are required by federal programs subject to this part into  
15 this plan, unless otherwise prohibited by federal law. That plan  
16 shall be known as the ~~Single Plan for Pupil Achievement~~ *single*  
17 *plan for pupil achievement* or may be referred to as the ~~Single Plan~~  
18 ~~for Student Achievement~~ *single plan for student achievement*.

19 (e) Plans developed pursuant to subdivision (d) of Section  
20 52054, and Section 6314 and following of Title 20 of the United  
21 States Code, shall satisfy this requirement.

22 (f) Notwithstanding any other provision of law, the content of  
23 a ~~Single Plan for Pupil Achievement~~ *single plan for pupil*  
24 *achievement* shall be aligned with school goals for improving pupil  
25 achievement. School goals shall be based upon an analysis of  
26 verifiable state data, including the Academic Performance Index  
27 developed pursuant to Section 52052 and the English ~~Language~~  
28 ~~Development~~ *language development* test developed pursuant to  
29 Section 60810, and may include ~~any~~ data voluntarily developed  
30 by districts to measure pupil achievement. The ~~Single Plan for~~  
31 ~~Pupil Achievement~~ *shall single plan for pupil achievement*, at a  
32 minimum, *shall* address how funds provided to the school through  
33 any of the sources identified in Section 64000 will be used to  
34 improve the academic performance of all pupils to the level of the  
35 performance goals, as established by the Academic Performance  
36 Index developed pursuant to Section 52052. The plan *also* shall  
37 ~~also~~ identify the schools' means of evaluating progress toward  
38 accomplishing those goals and how state and federal law governing  
39 these programs will be implemented.

1 (g) The plan required by this section shall be reviewed annually  
2 and updated, including proposed expenditure of funds allocated  
3 to the school through the consolidated application, by the schoolsite  
4 council, or, if the school does not have a schoolsite council, by  
5 schoolwide advisory groups or school support groups that conform  
6 to the requirements of Section 52852. The plans shall be reviewed  
7 and approved by the governing board of the local education agency  
8 at a regularly scheduled meeting whenever there are material  
9 changes that affect the academic programs for ~~students~~ *pupils*  
10 covered by programs identified in Section 64000.

11 (h) The school plan and subsequent revisions shall be reviewed  
12 and approved by the governing board of the school district. ~~School~~  
13 ~~district governing boards~~ *The governing board of the school district*  
14 shall certify that, to the extent allowable under federal law, plans  
15 developed for purposes of this section are consistent with district  
16 local improvement plans that are required as a condition of  
17 receiving federal funding.

18 (i) ~~Nothing in this act may be construed to~~ *This section does*  
19 *not* prevent a school district, at its discretion, from conducting an  
20 independent review pursuant to subdivision (c) of ~~Section 64001~~  
21 ~~as that~~ *this section as it read on January 1, 2001.*